IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 20169 of 2007(A)

PETITIONERS:-

1. T.K.ANILKUMAR, AGED 37,
   S/O.KUMARAN, THOTTATHIL HOUSE,
   CHIYARAM VILLAGE, THIRSSUR TALUK,
   THRISSUR DISTRICT.

2. T.K.SUBASH,S/O.KUMARAN,
   THOTTATHIL HOUSE,CHIYARAM VILLAGE,
   THIRSSUR TALUK,THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. THE SECRETARY, THRISSUR CORPORATION,
   THRISSUR.

2. THE DISTRICT COLLECTOR,
   THRISSUR.

3. THE SECRETARY, SNDP BRANCH YOGAM NO.2462
   CHELAKOTTUKARA, CHIYARAM VILLAGE,THRISSUR.

4. STATE OF KERALA, REP. BY THE
   SECRETARY TO GOVERNMENT,
   LOCAL SELF GOVERNMENT DEPARTMENT,
   THIRUVANANTHAPURAM.

R1 BY ADV. SRI.K.B.MOHANDAS,SC,THRISSUR CORPORATION
SRI.LELLULAL T.G.THUNDATHIL
SRI.K.A.SREEJITH
R3 BY ADV.SRI.N.D.PREMACHANDRAN
SRI.D.AJITHKUMAR
R2 & R4 BY SR.GOVT.PLEADER SRI.K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.20169/07

APPENDIX

PETITIONERS' EXTS:

EXT. P1 – TRUE COPY OF LETTER ISSUED BY R1 TO R3 DT.17.10.03.

EXT.P2 – TRUE COPY OF AGENDA FOR THE COUNCIL DECISION DT.28.2.04 OF R1.

RESPONDENTS' EXTS:

EXT.R3(A) – COPY OF SKETCH SHOWING ENCROACHMENT OF PETRS.

EXT.R3(B) – PHOTOGRAPH OF GURUMANDIRAM WITH THE EXISTING BOARD.

EXT.R3(C) – COPY OF COMMN. REPORT ALONG WITH ROUGH SKETCH.

EXT.R3(D) – COPY OF PLAINT IN O.S.1389/05.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.20169 OF 2007

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DATED THIS THE 8TH OCTOBER, 2007

J U D G M E N T

The grievance of the petitioners is that the Thrissur Corporation is not taking any action for removing the constructions put up by the 3rd respondent on puramboke land, in spite of decision in that regard taken by the Corporation Council.

2. The 3rd respondent has filed a counter affidavit. It is seen that in this counter affidavit, no contention is raised that the 3rd respondent is having proprietary title. But the contention seems to be that the 3rd respondent is having possessory title.

3. The Corporation through their counter affidavit has stated that the property is puramboke and that the 3rd respondent is liable to be evicted. The Corporation however is not amenable to suffer any time-frame regarding removal of the offending structures. These are the contentions raised by the Corporation through their counter affidavit:-

> "4. A name board with writing "S.N.D.P. Sagha Yogam No.2462, Chelakkottukara Office, Sreemaheswara temple", is fixed on the building standing at puramboke land situated in Sy.22/7 of Chiyyaram Village. At the middle portion in front of

the building an idol of Sree Narayanaguru also is installed. The building is completely under the control of S.N.D.P. Sagha Yogam No.2462.

5. Towards the action of eviction of encroachment from puramboke land, the Corporation has utilised the services of revenue survey team and the encroached portion is being identified and boundaries are being fixed.

6. The above property in the possession of S.N.D.P. Sagha Yogam No.2462, comprised in Chiyyaram Village, Sy.22/7 is also included in such identified puramboke encroachment. The Corporation is taking steps for eviction of encroachment after completion of the work of identification of encroachment and fixing its boundaries. There is no lapse on the part of the Corporation in evicting the encroachment."

4. Heard Sri.G.Sreekumar Chelur, counsel for the petitioners, Sri.N.D.Premachandran, counsel for the 3rd respondent and Sri.K.B.Mohandas, Standing Counsel for the Corporation.

5. Having regard to the submissions addressed and the pleadings raised, I am of the view that the Writ Petition can be disposed of issuing the following directions:-

The abovequoted averments in the counter affidavit of the

Corporation are recorded. The Corporation is directed to initiate and finalise the proceedings for evicting the 3rd respondent from the premises early and at any rate within six months of receiving copy of this judgment. This judgment will not stand in the way of the 3rd respondent seeking redressal of his grievances through a competent civil court or by having recourse to any available statutory procedure.

(PIUS C.KURIAKOSE, JUDGE)

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